

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PICTURE PATENTS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Case No. 07cv5567
	)	
	)	
AEROPOSTALE, INC., DICK'S	)	
SPORTING GOODS, INC., CHARLOTTE	)	
RUSSE, INC., GSI COMMERCE	)	
SOLUTIONS, INC., FOGDOG, INC.,	)	
NATIONAL BASKETBALL	)	
ASSOCIATION, INC., NBA	)	
PROPERTIES, INC., NBA MEDIA	)	
VENTURES, LLC, MAJOR LEAGUE	)	
BASEBALL PROPERTIES, INC., MLB	)	
ADVANCED MEDIA, L.P., LINENS 'N	)	
THINGS, INC., TWEETER HOME	)	
ENTERTAINMENT GROUP, INC.,	)	
TWEETER NEWCO, LLC, TWEETER	)	
OPCO, LLC, BUY.COM, INC.	)	
	)	
Defendants.	)	

**EXPLANATION OF DELAYED FILING**

1. Plaintiff Picture Patents, LLC's Opposition to Defendants Tweeter Newco, LLC and Tweeter Opco, LLC's Motion to Dismiss was required to be electronically filed through this Court's ECF system by April 14, 2008, pursuant to Paragraph 5 of the Southern District of New York's 3<sup>rd</sup> Amended Instructions for Filing an Electronic Case or Appeal.
  
2. Counsel for Plaintiff attempted for a period of several hours on April 14, 2008 to complete the e-filing, but was unsuccessful. The ECF system was unavailable for

electronic filing, as the system was not functioning and did not allow the Plaintiff to upload any documents.

3. Plaintiff Picture Patents, LLC's Opposition to Defendants' Motion to Dismiss was timely served upon Defendants' counsel on April 14, 2008, and has been filed promptly with the ECF system on April 15, 2008, upon restoration of the ECF system's availability. A courtesy copy was also sent to the Court by overnight mail on April 14, 2008.

NOW, THEREFORE, pursuant to the Southern District of New York's Procedures for Electronic Case Filing, No. 11, may the filing of Plaintiff Picture Patents LLC's attached Opposition to Defendants Tweeter Newco, LLC and Tweeter Opco, LLC's Motion to Dismiss be considered timely.

Dated: New York, New York  
April 15, 2008

Respectfully submitted,  
ALSTON & BIRD LLP

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